



INTERNATIONAL
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PATENTS

1. U.S. International Trade Commission Initiates Another Section 337 Investigation: On April 28, John Mezzalingua Associates, a U.S. company, complained to the U.S. International Trade Commission (ITC), alleging that five Chinese companies were infringing on four of its patents for coaxial cable connector products that were being exported from China and sold abroad. Mezzalingua requested that the ITC issue both exclusion and cease-and-desist orders. On May 23, the ITC commenced an investigation. To date, the ITC has opened seven investigations of Chinese businesses. In 2007, the ITC investigated seventeen cases involving products exported from China. (Original ITC Complaint:

<http://edisweb.usitc.gov/edismirror/337-650/Violation/298602/361053/17b/980f43.pdf>.) (Additional Information: *China IP News*, June 18, 2008, Page 5.)

TRADEMARKS

2. New Regulations in Hubei Province on Recognition of Famous Trademarks: Effective June 1, the "Regulation on Recognition and Promotion of Famous Trademarks in Hubei Province" (a local regulation or *di fang xing fa gui*, (地方性法规)) took effect. The new Regulation codifies criteria for recognition of a famous trademark, encompasses and recognizes "unregistered trademarks," and simplifies recognition procedures and extending the term of validity. Broadening recognition to include unregistered trademarks suggests that these types of marks also are eligible for famous-trademark status; recognition of famous trademarks no longer is restricted only to registered trademarks. Separately, the term of validity of a famous trademark has been extended from three to five years. The Regulation reportedly attempts to expand the latitude of protection of famous trademarks, resolve the conflict between trademarks and trade names within Hubei Province, and vest more practical rights in the owners of famous trademarks. The new Regulation further prohibits the use of words that are "same or similar" to famous trademarks in enterprise names. An owner of a famous trademark can request cancellation of a registration of an improper enterprise name, which will help safeguard the legitimate rights and interests of the owners of famous trademarks. No fee will be assessed during the process of application, recognition, and publication for famous trademarks. Additionally, provincial authorities plan to establish a special fund to foster and develop famous trademarks, establish a reward system for owners of famous trademarks, and boost the growth of famous provincial trademarks. (Source: *China IP News*, June 6, 2008, Page 7.)

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3. Zhejiang Copyright Authorities Attempt to Stop Pirated Textbooks: The Association of American Publishers (AAP) and the Publishers Association of the United Kingdom (PA) noted the recent Zhejiang Provincial Copyright Bureau's (ZCB) attempts to curtail the reproduction and sale of pirated books in Hangzhou. Working with rights holder representatives and national authorities, ZCB raided warehouses belonging to a textbook center affiliated with Zhejiang University, seizing nearly 500 suspected infringing titles. University officials reportedly cooperated in the inspection and enforcement action. The books, many published by AAP and PA member companies, were primarily professional, medical, scientific, and technical titles, which university students and faculty read. AAP and PA noted the prompt response of the ZCB, especially since this was the first time the associations had registered a complaint with this agency. AAP stressed that such prompt action was critical given the narrow window of opportunity to act against academic book piracy, at the beginning of each term. (Source: Joint AAP/PA Press Release, June 25, 2008; <http://www.publishers.org/main/PressCenter/ZhejiangPiracyCrackdown.htm>.)

4. SIPO Releases 2007 Survey of Software Piracy Rate: On May 28, the State Intellectual Property Office (SIPO) released its 2007 survey on software piracy in China. Chinalabs conducted the study under SIPO's commission. If pirated software is converted to market value for calculation purposes, the report claims that piracy has dropped from 24% in 2006 to 20% in 2007. The survey allegedly also found that piracy in all software categories fell from 36% to 31% in 2007, computer-software piracy declined from 51% to 41%, and operating-system piracy fell from 68% to 39%. SIPO attributed the fall to the Chinese Government's software-legalization program and to price decreases of software. (Source: http://news.ipr.gov.cn/ipr/news/info/Article.jsp?a_no=210471&col_no=1016&dir=200805.)

[Note: Based on the calculations of the Business Software Alliance (BSA), the 2007 software piracy rate in China is actually 82%. For the third consecutive year, SIPO commissioned the Chinalabs' report as a challenge to BSA's annual survey. End note.]

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5. China IPR Case at WTO in Geneva – U.S. Oral Statements: On June 18 and 19 in Geneva, the U.S. presented oral statements during the second substantive meeting of the panel with the parties

concerning the U.S. case against China before the World Trade Organization. The meeting concerned "Measures Affecting the Protection and Enforcement of IPR (DS362)." Written copies of the U.S. opening and closing oral statements may be found on the website of the U.S. Trade Representative at the following web address:

http://www.ustr.gov/Trade_Agreements/Monitoring/Enforcement/Dispute_Settlement/WTO/Dispute_Settlement_Index_-_Pending.html.
